

Testimony of Eric Kress, MD, before the Senate Judiciary Committee on 3/26/13 regarding HB505.

My name is Eric Kress, a family physician in Missoula, Montana. I have practiced Family Medicine in Montana for 26 years. I am appearing before you today to present testimony on why I believe you should vote against HB505.

First of all, I wish to thank all the members of the Senate Judiciary Committee for listening to my views on this issue.

The matter before you is whether to vote for HB505 or not. This bill clearly states that any doctor, nurse, or family member who assists a patient in obtaining an Aid In Dying prescription will be sentenced to 10 years in jail and a \$50,000 fine.

So you may be wondering what kind of doctor you will be sending to jail? I sit before you today and state that I am that kind of doctor. I have written an Aid In Dying prescription for 3 patients. This all occurred since the *Baxter* decision by the Montana Supreme Court made it legal to do so.

In order to give you a clear understanding of my work, I need to describe my practice. In 95% of my work I am a good old family doctor, like my dad was before me. I have delivered hundreds of babies and diagnosed hundreds of cancers. I have prevented thousands of deaths and disabilities from stroke and heart attacks by treating high blood pressure, high cholesterol, and diabetes.

I am state school educated, having received a state funded public education through all levels. This includes the University of Montana and WAMI program through the University of Washington School of Medicine. I thank you and all the taxpayers of Montana for making this possible.

In addition to the above work, I estimate that 5 % of my work time over the last 8-10 years has been devoted to palliative care. In 2008 I received a Board Certification in Palliative Care acknowledging my time spent and special knowledge in this area.

With the above background information in mind I wish to discuss with you why I feel you should vote against HB505 and vote for preserving a patient's right to choose Aid In Dying when faced with a terminal disease.

Today I am going to give you a glimpse into what it is like to be on the frontlines of Palliative Care. To be the person in the room that the patient, the family and other health care providers look to for advice when considering their options for care at the end of life. I have been that person on countless occasions. Most of the time, compassionate and time-tested palliative care treatments, from hospice health care professionals, will be all that is needed to guide the person through her dying process in a comfortable fashion.



For some patients, however, this will not work. Of these patients some will have a "hard death." By this I mean that despite the usual 4-5 medications used in palliative care, nothing is working. We then have to resort to more and more powerful medications and delivery systems until we enter the realm of "Terminal Sedation." This could involve the use of a general anesthetic. Undoubtedly these options can shorten lives by hours, days, or weeks. I have never known anyone who has witnessed a person in a pain crisis at the end of life express regret that terminal sedation was used. In fact they have universally been thankful and grateful that this option existed.

Another group of people wish to have more control over the timing and manner of their death and seek me out for advice on the option of Aid In Dying. Since the *Baxter* decision, approximately 10 people have consulted with me about utilizing this option. Of these 10, I have written 3 prescriptions for Aid In Dying medication. All 3 patients chose to utilize this option. 2 of these 10 patients stockpiled their medications and then took a large amount to hasten their death and relieve their suffering.

Of these 3 patients all were male and all were rugged individualists. They all were very uncomfortable with the thought of not being able to care for themselves and having family members do personal hygiene, even though all of them had loving family members very willing to do so. All of them stated it was very important to die with dignity and avoid the personal indignity of having others care for their basic bodily functions while they were going to die in a short period of time anyway.

One man was poor, one was middle class, and one was rich. 2 had advanced esophageal cancer. One had ALS, Lou Gehrig's disease. All 3 had more than 2 doctors who had rendered opinions that they were terminal and had plentiful diagnostic testing confirming these opinions. All of them were of sound mind and knew what they were doing. None were depressed. All of them expressed that they had no wish to die. They all loved life and would much prefer to live. But not in the miserable condition that their terminal disease was now dictating.

Soon after the *Baxter* decision, a man with terminal and advanced ALS asked to see me. He was on hospice and wanted me to prescribe Aid In Dying. He was a wealthy, self-made man who had been incredibly active both in his profession and outside activities. The court decision being new, I was hesitant to write a prescription. This man was not used to taking no for an answer. I needed time to think about it. He dressed me down like a Marine drill sergeant. Since he could barely speak in a whisper he spoke with his eyes and wrote down profanities to make sure that he communicated to me that I was a coward. This once proud man used to be well over 6'2" and had 200 pounds of muscle. He had been completely self reliant. He had now been reduced to 120 pounds of skin and bones. He had a tube feed but still choked quite often, and could not walk. Despite this he kept trying and was falling constantly. He would often be found weeping and bemoaning the miserable fate that

So to summarize; the doctor who sits before you, the doctor who would be thrown in jail if HB505 passes, is a doctor who is proud of his work. He is grateful to the State of Montana that has invested so much in him. My suffering patients and families of those who suffer are grateful to me. All of us are grateful that our government, through the *Baxter* decision, has not been controlling our deeply personal decisions at the end of life.

I urge you to vote against HB505; a bill that would be a government taking of a personal freedom that the citizens of Montana now enjoy.

I sincerely thank you for listening to my views on this issue. Eric Kress MD